THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.18206 OF 1993

ORDER:

This writ petition is filed aggrieved by the order dated 11.11.1993 issued by the second respondent in R.C.No.B8/22250/89 holding that the petitioner does not belong to the Scheduled Tribe community.

The case of the petitioner is that she was appointed as clerk in the office of the Joint Director, Food Corporation of India, Visakhapatnam by the Regional Director (Food), Southern Region, Food Corporation of India, Madras in the year 1968 vide order in Memo No.1(Food)/68/Admn/I.D. dated 27.1.l1968 and her name was sponsored by the Employment Exchange, Eluru. Thereafter, she was given promotion from time to time and as on the date she was promoted as Assistant Manager and the orders in this regard are awaited.

It is her further case that the show-cause notice was issued to her asking her to explain as to why the certificate dated 6.4.1974 issued by the Tahsildar, Bhadrachalam in L.Dis.No.827/74 certifying her community as Konda Kapu should not be cancelled and why she should not be prosecuted for obtaining false S.T.certificate by concealing the real fact. In the above show cause notice it is mentioned that the Director of Tribal Welfare has sent a report, on the basis of which the fourth respondent referred the matter to the first respondent to cause verification about the community status of the petitioner. It is also mentioned in the show cause notice that the enquiry report of the M.R.O.,Bhadrachalam reveals that there is no person by name Pasupuleti Krishnamurthy, who is said to have been residing in Gauridevipeta village and the elders of the village or any other villager failed to reveal about the residence of the petitioner.

It is her further case that in response to the allegations made against her, she

filed her explanation giving particulars of her community and requested the authorities to conduct a fresh enquiry in her presence or permit her to cross-examine the village elders, whose statements were alleged to have been recorded by the authorities. Thereafter a fresh enquiry was conducted in her presence in Gowridevipeta village and the village elders categorically stated that her father was resident of the said village and he was treated as Konda Kapu and that when she was aged about four years, her father left the village for Eluru for eking out his livelihood. In addition to the persons who were examined earlier, six more persons were examined and all of them in one voice stated that the petitioner's family resided in the village and their community is Konda Kapu. It is also stated that soon after completion of her S.S.L.C., she got registered her name with the Employment Exchange, Eluru and the said employment exchange sponsored her name to the Food Corporation of India and accordingly she was appointed as clerk. It is her further case that she was recruited as a general candidate and not against any vacancy reserved for the Scheduled Tribes as the authorities never asked nor insisted her to produce community certificate. It is her case that by virtue of her father's community she belong to Scheduled Tribe community and the entries in the school registered through out and the social status certificate issued by the various authorities from time to time reveals that she belongs to Konda Kapu community which is a scheduled tribe community. The grievance of the petitioner is that in spite of the above, the second respondent arbitrarily issued the impugned proceedings without considering the ample material available with him and thereby caused irreparable loss not only to her but also to her future generation.

The second respondent is said to have issued the impugned proceedings under exercise of powers conferred under G.O.Ms.No.282 SW (J2) Department, dated 19.12.1989. However, it is submitted by the learned Government Pleader that subsequent to the issuance of the G.O., under which the second respondent exercised the powers and issued the impugned proceedings, the A.P. (SC, ST & BCs) Regulations of Issue of Community Certificates Act, 1993 and the Rules 1997 has come into force. It is further submitted that Section 7 of the said Act provided the remedy of appeal to the Government against the orders of the District Collector. At the time of filing of the present writ petition, no such remedy was available to the petitioner and as such she has not availed the remedy of appeal.

It is submitted by the learned counsel for the petitioner that in the similar

circumstances, this Court by order dated 13.12.2004 disposed W.P.No.12238 of 1994 without going into the merits of the case permitting the petitioner therein to avail the remedy of appeal before the Government within a period of six weeks from the date of receipt of that order and in turn the Government was directed to entertain the same without reference to the limitation and to consider the appeal on merits as expeditiously as possible.

Heard the learned counsel for the petitioner and also the learned Government Pleader for the first and second respondents and also the learned Standing Counsel.

It is submitted by the learned Standing Counsel that the impugned order reveals that the second respondent had elaborately considered the facts by following the principles of natural justice and as such the order impugned does suffer from any legal infirmities.

Admittedly, subsequent to passing of impugned order, the Regulations referred above have come into force where under an effective remedy of appeal against the orders of District Collector is provided.

Therefore, having regard to the facts and circumstances of the case, I am of the view that following the judgment of this Court referred to above, this writ petition is disposed of permitting the petitioner to avail the remedy of appeal provided under the A.P.(SC, ST & BCs) Regulations of Issue of Community Certificates Act, 1993 and Rules 1997 by filing the same before the Government within a period of six weeks from the date of receipt of a copy of this order. On filing such appeal, the Government shall entertain the same without reference to the Limitation and consider it on merits as expeditiously as possible preferably within a period of four months from the date of filing of appeal by the petitioner.

The writ petition is accordingly disposed. No order as to costs.

_____

JUSTICE G.CHANDRAIAH

DT: 25.7.2005.

Mdaa.